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2 Holger Uhl [OSB#950143]  
3 **McCarthy & Holthus LLP**  
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Attorneys for First Horizon Home Loan Corporation

6 **IN THE UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF OREGON**  
8 **MEDFORD DIVISION**

9 TAMIE RICHARDSON,

10 Plaintiff,

11 vs.  
First Horizon Home Loan Corporation,

12 Defendants.

13 Case No. 10-03073

14 **MOTION TO DISMISS AMENDED  
COMPLAINT  
AND TO LIFT INJUNCTION OR IN THE  
ALTERNATIVE TO ORDER  
SETTLEMENT CONFERENCE AND STAY  
PROCEEDINGS**

15 **ORAL ARGUMENT REQUESTED**

16 Defendant requests an expedited hearing.

17 Defendant estimates time for argument to be one hour.

18 This motion is for all the claims in this action.

20 **INTRODUCTION**

22 Defendant remains willing and able to resolve this dispute and seeks the opportunity to do so.  
23 However, in light of Plaintiff's undisputed and serious delinquency, and the lack of a proper legal or factual  
24 foundation for this complaint, Defendant has filed alternative pleadings. The purpose of these pleadings is  
25 to avoid unnecessary costs and delay and to focus on the central issues of this matter.  
26

27 Motion - 1

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2                   **LOCAL RULE 7-1 CERTIFICATION**  
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5                   Defendant First Horizon Home Loan Corporation by and through its attorney, Holger Uhl of  
6 McCarthy & Holthus, LLP, certifies that the parties attempted to resolve this dispute prior to seeking a  
7 decision from this Court and have been unable to do so. The undersigned attorney certifies that the parties  
8 communicated by letter and email, that Defendant offered to enter into formal or informal mediation and  
9 stay proceedings during such process, and informed Plaintiff that a loan modification was possible and  
desirable for all parties, but that Plaintiff has chosen to go forward with filing an Amended Complaint.  
10

11                   **MOTION TO DISMISS AND LIFT INJUNCTION**  
12

13                   Defendant moves this Court for an order dismissing Plaintiff's Complaint for failure to state a claim  
upon which relief can be granted. The motion is supported by a memorandum in support thereof and the  
record. In light of the Amended Complaint which still fails to provide a factual basis for Plaintiff's claims,  
Defendant respectfully requests that the court's injunction as to the pending foreclosure be lifted  
immediately unless Plaintiff can provide security in an amount sufficient to show that she can either cure  
her default or pay off the underlying debt.  
18

19                   **MOTION FOR SETTLEMENT CONFERENCE AND TO STAY PROCEEDINGS IN THE  
ALTERNATIVE**  
20

21                   Defendant believes that this matter is subject to resolution through a settlement conference despite the fact  
that Plaintiff's pleadings lack legal and factual merit. It is in both parties' best interests to reach a  
resolution short of a foreclosure sale. Therefore Defendant requests that the Court order a settlement  
conference as an alternative to ruling on Defendant's motion to dismiss. In order to facilitate settlement and  
to avoid unnecessary litigation costs, Defendant further requests that during the pendency of the settlement  
order that the litigation be stayed. At this point both parties intend to conduct depositions on matters and  
27

1  
2 subjects that could be discussed during settlement conference, but without the associated costs of a formal  
3 deposition. Thus, staying the proceedings would facilitate settlement.

4  
5 DATED February 17, 2011

6 McCarthy & Holthus, LLP

7 /s/ *Holger Uhl*

8 By \_\_\_\_\_

9 Holger Uhl, Of the Firm

10 Attorneys for First Horizon Home Loan Corporation

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27 Motion - 3

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2                   **CERTIFICATE OF SERVICE**  
3

4                   I HEREBY CERTIFY that on February 17, 2011, I served a copy of the foregoing on CM/ECF Registered  
5 Participants as reflected on the Notice of Electronic Filing:  
6

7                   •  
8

9                   Additionally, a copy of the foregoing was served on the following parties by first class mail, postage prepaid,  
10 addressed to:  
11

12                   **Tamie Richardson**  
13                   746 Bailey Drive  
14                   Grants Pass, OR 97527  
15

16                   */s/ Holger Uhl*  
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18                   

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19                   Holger Uhl  
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21                   Motion - 4  
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